



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-R08-OAR-2015-0342; FRL-9936-74-Region 8]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Utah; Reclassification as Serious Nonattainment for the 2006 Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to reclassify to Serious the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID nonattainment areas in Utah for the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS). Our proposal is based on EPA's determination that the areas cannot practicably attain this standard by the applicable Moderate area attainment date of December 31, 2015. Upon final reclassification as a Serious area, Utah will be required to submit a Serious area plan for each nonattainment area, including demonstrations that the individual plans for each area provides for attainment of the 2006 PM_{2.5} NAAQS by the applicable Serious area attainment date.

DATES: Written comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by EPA-R08-OAR-2015-0342, by one of the following methods:

- <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- Email: ostigaard.crystal@epa.gov.
- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- Mail: Director, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
- Hand Delivery: Director, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R08-OAR-2015-0342. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and

other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Region 8, Office of Partnerships and Regulatory Assistance, Air Program, 1595 Wynkoop Street, Denver, Colorado, 80202-1129. EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding federal holidays. An electronic copy of the State's SIP compilation is also available at <http://www.epa.gov/region8/air/sip.html>.

FOR FURTHER INFORMATION CONTACT: Crystal Ostigaard, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6602, ostigaard.crystal@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

- a. *Submitting CBI.* Do not submit CBI to EPA through <http://www.regulations.gov> or email.

Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

- b. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- i. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- ii. Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns, and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or

personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

On October 17, 2006, EPA revised the 24-hour NAAQS for PM_{2.5} to provide increased protection of public health by lowering its level from 65 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 35 $\mu\text{g}/\text{m}^3$ (40 CFR 50.13).¹ Epidemiological studies have shown statistically significant correlations between elevated PM_{2.5} levels and premature mortality. Other important health effects associated with PM_{2.5} exposure include aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and restricted activity days), changes in lung function and increased respiratory symptoms. Individuals particularly sensitive to PM_{2.5} exposure include older adults, people with heart and lung disease, and children (78 FR 3086 at 3088, January 15, 2013). PM_{2.5} can be emitted directly into the atmosphere as a solid or liquid particle (“primary PM_{2.5}” or “direct PM_{2.5}”) or can be formed in the atmosphere as a result of various chemical reactions among precursor pollutants such as nitrogen oxides, sulfur oxides, volatile organic compounds, and ammonia (“secondary PM_{2.5}”).²

Following promulgation of the new or revised NAAQS, EPA is required by CAA section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS. On

¹ See 71 FR 61224 (October 17, 2006). EPA set the first NAAQS for PM_{2.5} on July 18, 1997 (62 FR 36852), including annual standards of 15 $\mu\text{g}/\text{m}^3$ based on a 3-year average of annual mean PM_{2.5} concentrations and 24-hour (daily) standards of 65 $\mu\text{g}/\text{m}^3$ based on a 3-year average of 98th percentile 24-hour concentrations (40 CFR 50.7). In 2012, EPA revised the annual standard to lower its level to 12 $\mu\text{g}/\text{m}^3$ (78 FR3086, January 15, 2013, codified at 40 CFR 50.18). Unless otherwise noted, all references to the PM_{2.5} standard in this notice are to the 2006 24-hour standard of 35 $\mu\text{g}/\text{m}^3$ codified at 40 CFR 50.13.

² See EPA, Regulatory Impact Analysis for the Final Revisions to the National Ambient Air Quality Standards for Particulate Matter (EPA-452/R-12-005, December 2012), p. 2-1.

November 13, 2009, EPA designated the Salt Lake City, Provo, and Logan, UT/ID areas as nonattainment for the 2006 PM_{2.5} standard of 35 µg/m³ (74 FR 58688, November 13, 2009). This designation became effective on December 14, 2009 (40 CFR 81.345). The Salt Lake City, Provo, and Logan, UT/ID areas were designated unclassifiable/attainment for the 1997 and 2012 annual PM_{2.5} standards. For a precise description of the geographic boundaries of the Salt Lake City, Provo, and Logan portion of the Logan, UT/ID PM_{2.5} nonattainment areas, see 40 CFR 81.345. EPA originally designated these areas under CAA title I, part D, subpart 1, which required the State of Utah to submit an attainment plan for each area no later than three years from the date of their nonattainment designations. These plans needed to provide for the attainment of the PM_{2.5} standard as expeditiously as practicable, but no later than five years from the date the areas were designated nonattainment.

Subsequently, on January 4, 2013, the U.S. Court of Appeals for the District of Columbia held that EPA should have implemented the 2006 PM_{2.5} 24-hour standard based on both CAA title I, part D, subpart 1 and subpart 4. Under subpart 4, nonattainment areas are initially classified as Moderate, and Moderate area attainment plans must address the requirements of subpart 4 as well as subpart 1. Additionally, CAA subpart 4 sets a different state implementation plan (SIP) submittal due date and attainment year. For a Moderate area, the attainment SIP is due 18 months after designation and the attainment year is the end of the sixth calendar year after designation. On June 2, 2014 (79 FR 31566), EPA finalized the Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particulate (PM_{2.5}) National Ambient Air Quality Standard (NAAQS) and 2006 PM_{2.5} NAAQS (“the Classification and Deadline Rule”). This rule classified as Moderate the

areas that were designated in 2009 as nonattainment, and set the attainment SIP submittal due date for those areas at December 31, 2014. That rule did not affect the Moderate area attainment date of December 31, 2015.

On March 23, 2015, EPA proposed the Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements (“PM_{2.5} Implementation Rule”), 80 FR 15340, which partially addresses the January 4, 2013 court ruling. This proposed rule details how air agencies should meet the statutory SIP requirements that apply under subparts 1 and 4 to areas designated nonattainment for any PM_{2.5} NAAQS, such as: general requirements for attainment plan due dates and attainment demonstrations; provisions for demonstrating reasonable further progress (RFP); quantitative milestones; contingency measures; Nonattainment New Source Review (NNSR) permitting programs; and reasonably available control measures (RACM) (including reasonably available control technology (RACT)), among other things. The statutory attainment planning requirements of subparts 1 and 4 were established to ensure that the following goals of the CAA are met: (i) That states implement measures that provide for attainment of the PM_{2.5} NAAQS as expeditiously as practicable; and, (ii) that states adopt emissions reduction strategies that will be the most effective, and the most cost-effective, at reducing PM_{2.5} levels in nonattainment areas.

III. Potential One-Year Moderate Area Attainment Date Extensions

Under section 188(d) of the Act, a state may apply to EPA for up to two one-year extensions of the Moderate area attainment date, which EPA may grant if the state satisfies certain conditions. Before EPA may extend the attainment date for a Moderate area under section 188(d), EPA must determine that: (1) the state has complied with all requirements and

commitments pertaining to the area in the applicable implementation plan; and (2) no more than one exceedance of the 24-hour NAAQS level for PM₁₀ has occurred in the area in the year proceeding the extension year, and the annual mean concentration for PM₁₀ in the area for such year is less than or equal to the standard level. The PM_{2.5} Implementation Rule proposes interpretations of these provisions pertaining to PM_{2.5}. Currently, the only Moderate nonattainment area in Utah for which the State has indicated they may request an extension of the Moderate area attainment date is the Logan, UT/ID nonattainment area. Until this action is finalized, the Logan portion of the Logan, UT/ID nonattainment area may still qualify for this Moderate area attainment date extension, as the year prior to the Moderate area attainment date is 2015. EPA intends that, if the State requests an extension of the Moderate area attainment date for the Logan portion of the Logan, UT/ID nonattainment area before EPA finalizes this discretionary reclassification, EPA may decide not to finalize this proposed reclassification with respect to the Logan area only. If EPA then acts on the State's extension request, EPA will do so through a separate notice-and-comment rulemaking. In this proposed reclassification, we are neither proposing nor requesting comment on a potential extension.

IV. Reclassification as Serious Nonattainment Area and Serious Area SIP Requirements

A. Reclassification as Serious and Applicable Attainment Date

Section 188 of the Act outlines the process for classification of PM_{2.5} nonattainment areas and establishes the applicable attainment dates. EPA has historically taken the view that under the plain meaning of the terms of section 188(b)(1) of the Act, EPA has general authority to reclassify before the applicable attainment date any areas that EPA determines cannot practicably attain the standard by such date. Accordingly, section 188(b)(1) of the Act is a general

expression of delegated rulemaking authority.

The criteria for determining if an area is attaining the 2006 24-hour PM_{2.5} NAAQS are set out in 40 CFR 50.13 and 40 CFR part 50, appendix N. The 2006 24-hour PM_{2.5} primary and secondary standards are met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR part 50, Appendix N, is less than or equal to 35 µg/m³. To produce a valid 24-hour standard design value, the three year average of the annual 98th percentile 24-hour average values is required. A year meets data completeness requirements when at least 75 percent of the scheduled sampling days for each quarter have valid data; however, less than complete data may be used when the resulting 24-hour design value is greater than the level of the standard. See 4.2(b), 40 CFR part 50, appendix N. The use of less than complete data is subject to the approval of EPA, which may consider factors such as monitoring site closures/moves, monitoring diligence, and nearby concentrations in determining whether to use such data. We have reviewed recent PM_{2.5} monitoring data for the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID nonattainment areas available in EPA's Air Quality System (AQS) database. These data show that the 24-hour PM_{2.5} levels in the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID nonattainment areas continue to be well above 35 µg/m³, the level of the 2006 PM_{2.5} standard, and the recent trends in the nonattainment areas 24-hour PM_{2.5} levels are not consistent with a projection of attainment by the end of 2015 (*see* Table 1 below). Additionally, for these three nonattainment areas to show attainment for the three year period of 2013-2015, the 98th percentile for 2015 would need to be near (or below) 0 µg/m³. These data show that it is impracticable for these three areas to attain the 24-hour standard by the end of 2015.

Table 1 – 24-Hour PM_{2.5} NAAQS Design Values in µg/m³

NAA	Site	AQS ID	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Logan portion of Logan, UT/ID NAA	Logan, UT	490050004	65	64	42	36	40	43	42	37	46	45
Provo NAA	Lindon, UT	490494001	43	44	45	44	50	41	41	32	44	42
	North Provo, UT	490490002	39	38	37	37	42	36	35	29	45	43
	Spanish Fork, UT	490495010	36	36	36	34 ¹	42	39	42	35	46	44
Salt Lake City NAA	Bountiful, UT	490110004	40	38	38	35 ¹	38	38	40	34	35	38
	Brigham City, UT	490030003	35	35	29	35	37	42	40	37	37	37
	Harrisville, UT	490571003	36	38	35	35	38	36	37	33 ¹	35 ¹	n/a
	Hawthorne, UT	490353006	47	48	48	46	48	44	45	38	41	43
	Magna, UT	490351001	41	40	32	29	31	33	35	30	32	35
	Ogden No. 2, UT	490570002	40	40	36	36	40	37	40	36	39	34
	Rose Park, UT	490353010	n/a	n/a	n/a	n/a	37	41	41	35	39	42
	Tooele City, UT	490450003	n/a	n/a	31 ¹	22	23	26	27	24	28	29

¹ 40 CFR part 50, appendix N, section 4.2(b) considers design values invalid when the design value is less than or equal to the level of the NAAQS, and one of more quarters have less than 75% data completeness.

In accordance with section 188(b)(1) of the Act, EPA is proposing to reclassify the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID nonattainment areas from Moderate to Serious nonattainment for the 2006 24-hour PM_{2.5} standard of 35 µg/m³, based on EPA's determination that the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID areas cannot practicably attain this standard by the applicable attainment date of December 31,

2015.

Under section 188(c)(2) of the Act, the attainment date for a Serious area “shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the areas designation as nonattainment...” The Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID areas were designated nonattainment for the 2006 PM_{2.5} standard effective December 14, 2009.³ Therefore, upon final reclassification of the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID areas as Serious nonattainment areas, the latest permissible attainment date under section 188(c)(2) of the Act, for purposes of the 2006 PM_{2.5} standard in these areas, will be December 31, 2019.

B. Clean Air Act Requirements for Serious PM_{2.5} Nonattainment Area Plans

Upon reclassification as Serious nonattainment areas for the 2006 PM_{2.5} NAAQS, Utah will be required to submit additional SIP revisions to satisfy the statutory requirements of subpart 4 of part D, title I of the Act.

The Serious area SIP elements that Utah will be required to submit are as follows:

1. Provisions to assure that the best available control measures (BACM), including best available control technologies (BACT) for stationary sources, for the control of direct PM_{2.5} and PM_{2.5} precursors shall be implemented no later than four years after the area is reclassified (CAA section 189(b)(1)(B));
2. A demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than December 31, 2019, or where the state is seeking an extension of the attainment date under section 188(e), a demonstration that

³ See 74 FR 58688 (November 13, 2009).

attainment by December 31, 2019 is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable and no later than December 31, 2024 (CAA sections 188(c)(2), 188(e), and 189(b)(1)(A));

3. Plan provisions that require RFP (CAA 172(c)(2));
4. Quantitative milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate RFP toward attainment by the applicable date (CAA section 189(c));
5. Provisions to assure that control requirements applicable to major stationary sources of PM_{2.5} also apply to major stationary sources of PM_{2.5} precursors, except where the state demonstrates to EPA's satisfaction that such sources do not contribute significantly to PM_{2.5} levels that exceed the standard in the area (CAA section 189(e));
6. A comprehensive, accurate, current inventory of actual emissions from all sources of PM_{2.5} and PM_{2.5} precursors in the area (CAA section 172(c)(3));
7. Contingency measures to be implemented if the area fails to meet RFP or to attain by the applicable attainment date (CAA section 172(c)(9)); and
8. Revisions to the NNSR program to lower the applicable "major stationary source"⁴ thresholds from 100 tons per year (tpy) to 70 tpy (CAA section 189(b)(3)).

As described above, EPA proposed a rulemaking to provide guidance to states on the attainment planning requirements in subparts 1 and 4 of part D, title I of the Act that apply to areas designated nonattainment for PM_{2.5} (80 FR 15340; March 23, 2015).

C. Deadline for Submittal of Serious Area Plan Elements

⁴ For any Serious area, the terms "major source" and "major stationary source" include any stationary source that emits or has the potential to emit at least 70 tons per year of PM₁₀ (CAA section 189(b)(3)).

For an area reclassified as a Serious nonattainment area before the applicable attainment date under CAA section 188(b)(1), section 189(b)(2) requires the State to submit the required BACM provisions “no later than 18 months after reclassification of the area as a Serious Area” and to submit the required attainment demonstration “no later than four years after reclassification of the area to Serious.” Section 189(b)(2) establishes outer bounds on the SIP submission deadlines and does not preclude EPA’s establishment of earlier deadlines as necessary or appropriate to assure consistency among the required submissions and to implement the statutory requirements.

If a final reclassification of the Salt Lake City, Provo, and Logan portion of the Logan, UT/ID PM_{2.5} nonattainment areas to Serious becomes effective by early 2016, the Act provides the State with up to 18 months after this date (i.e., until mid-2017) to submit the required BACM provisions. Because an up-to-date emissions inventory serves as the foundation for a state’s BACM and BACT determinations, EPA also proposes to require the State to submit the emissions inventory required under CAA section 172(c)(3) within 18 months after the effective date of final reclassification. Similarly, because an effective evaluation of BACM and BACT measures requires evaluation of the precursor pollutants that must be controlled to provide for expeditious attainment in the area, if the State chooses to submit an optional precursor insignificance demonstration to support a determination to exclude a PM_{2.5} precursor from the required control measure evaluations for the area, EPA proposes to require the State to submit any such demonstration by this same date. An 18-month timeframe for submission of these plan elements is consistent with both the timeframe for submission of BACM provisions under CAA section 189(b)(2) and the timeframe for submission of subpart 1 plan elements under section

172(b) of the Act.⁵

EPA proposes to require the State to submit the attainment demonstration required under section 189(b)(1)(A) and the remaining attainment-related plan elements no later than three years after the effective date of final reclassification or by December 31, 2018, whichever is earlier.

The attainment-related plan elements that we propose to require within the same three-year timeframe as the attainment demonstration are: (1) the RFP demonstration required under section 172(c)(2); (2) the quantitative milestones required under section 189(c); (3) any additional control measures necessary to meet the requirements of section 172(c)(6); and (4) the contingency measures required under section 172(c)(9). Although section 189(b)(2) generally provides for up to four years after a discretionary reclassification for the State to submit the required attainment demonstration, it is appropriate in this case for EPA to establish an earlier SIP submission deadline to assure timely implementation of the statutory requirements.

As discussed in the Background section, EPA designated the Salt Lake City, Provo, and Logan, UT/ID areas as nonattainment for the 2006 PM_{2.5} standard effective December 14, 2009.⁶ On January 4, 2013, the D.C. Circuit Court of Appeals issued its decision in *NRDC* remanding EPA's 2007 PM_{2.5} Implementation Rule and directing EPA to repromulgate it in accordance with the requirements of subpart 4.⁷ In response to the *NRDC* decision, EPA undertook a rulemaking to classify all PM_{2.5} nonattainment areas as Moderate nonattainment and begin implementing the PM_{2.5} NAAQS under subpart 4. Effective July 2, 2014, EPA classified all areas previously designated nonattainment for the 1997 and/or 2006 PM_{2.5} NAAQS as Moderate nonattainment

⁵ Section 172(b) requires EPA to establish, concurrent with nonattainment area designations, a schedule extending no later than 3 years from the date of the nonattainment designation for states to submit plans or plan revisions meeting the applicable requirements of sections 110(a)(2) and 172(c) of the CAA.

⁶ 74 FR 58688 (November 13, 2009).

⁷ *NRDC v. EPA*, 706 F.3d 428 (D.C. Cir. 2013).

under subpart 4 and established a December 31, 2014 deadline for states to submit Moderate area SIP elements required for these areas.⁸ These unusual circumstances have significantly shortened the timeframes ordinarily allowed under the Act for EPA and the states to address the statutory SIP requirements following reclassification of an area from Moderate to Serious nonattainment under subpart 4.⁹

Our proposal to require the State to submit the attainment demonstration and other attainment-related plan elements no later than three years after reclassification or by December 31, 2018, whichever is earlier, is supported by the overall structure and purpose of the attainment planning requirements in part D, title I of the Act. Section 188(b)(1) provides EPA with discretionary authority to reclassify an area as Serious nonattainment at any time before the applicable attainment date, based on a determination that the area cannot practicably attain the NAAQS by the Moderate area attainment date. Under normal circumstances, where EPA reclassifies an area within three years after its designation as nonattainment, as contemplated in CAA section 188(b)(1)(B),¹⁰ the required BACM provisions would be due no later than 18 months after reclassification (*i.e.*, no later than 4.5 years after designation) and the required attainment demonstration would be due no later than four years after reclassification (*i.e.*, no

⁸ 79 FR 31566 (June 2, 2014). EPA notes that some states had already made SIP submissions intended to meet applicable nonattainment plan requirements as interpreted in the remanded 2007 PM_{2.5} Implementation Rule. Accordingly, the new SIP submission deadline provided the opportunity for states to revise or supplement their prior submissions, as necessary or appropriate to meet subpart 4 requirements.

⁹ For areas designated nonattainment after November 15, 1990, section 188(b)(1)(B) of the Act requires that EPA “reclassify appropriate areas within 18 months after the required date for the State’s submission of a SIP for the Moderate Area.” Read together with section 189(a)(2)(B), which requires states to submit Moderate Area plans within 18 months after nonattainment designations, section 188(b)(1)(B) generally contemplates that EPA would reclassify appropriate areas as Serious nonattainment no later than 36 months (3 years) after initial nonattainment designations. Under these circumstances, the required Serious area attainment demonstration would normally be submitted no later than 7 years after initial designation (4 years after reclassification), which is 3 years before the latest permissible attainment date under CAA section 188(c)(2).

¹⁰ *Id.*

later than seven years after designation).¹¹ In these circumstances, the Serious area attainment demonstration would be due at least three years before the outermost Serious area attainment date for the area,¹² thus providing EPA with sufficient time to evaluate the submitted plan well in advance of the statutory attainment date. However, in situations such as this, where EPA reclassifies an area pursuant to its discretionary reclassification authority *later* than three years after the area's designation as nonattainment, it is appropriate for EPA to consider the outermost Serious area attainment date applicable to the area in setting a deadline for the State to submit the required elements of the Serious area attainment plan.

Upon reclassification as Serious, the Salt Lake City, Provo, and Logan portion of the Logan, UT/ID PM_{2.5} nonattainment areas will be subject to a Serious area attainment date no later than December 31, 2019.¹³ Sections 189(b)(1)(A) and 189(c) of the Act require the State to submit a demonstration that the plan provides for attainment of the PM_{2.5} standard by this date, including quantitative milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate reasonable further progress toward attainment by this date. If EPA reclassifies the Salt Lake City, Provo, and Logan portion of the Logan, UT/ID area effective in early 2016 and allows the State four years following reclassification (*i.e.*, potentially until early 2020) to submit the attainment demonstration and related plan elements, these Serious area plan provisions would not be due until after the latest permissible statutory attainment date for the area (December 31, 2019) has come and gone. Thus, under such

¹¹ CAA section 189(b)(2). By contrast, for an area that is reclassified as Serious by operation of law *after* the applicable attainment date, which may be as late as the end of the 6th year after the area's designation as nonattainment (CAA section 188(b)(1)), the state must submit both the BACM provisions and the Serious area attainment demonstration no later than 18 months after reclassification. *Id.*

¹² Under CAA section 188(c)(2), the latest permissible attainment date for a Serious PM_{2.5} nonattainment area is no later than the end of the tenth calendar year beginning after the area's designation as nonattainment.

¹³ *Id.*

circumstances, allowing the maximum four-year timeframe for submission of the required attainment demonstration and related plan elements would frustrate the statutory design and severely constrain EPA's ability to ensure that the State is implementing the applicable statutory requirements in a timely manner.

Therefore, it is appropriate for EPA to require Utah to submit the required attainment demonstration and other attainment-related plan elements no later than three years after final reclassification or by December 31, 2018, whichever is earlier, so that EPA has adequate time to review and act on the State's submission prior to the latest permissible attainment date for the area under section 188(c)(2), which is December 31, 2019. This timeframe for the required Serious area plan submissions is appropriate to assure consistency among the required submissions and to implement the statutory requirements in a timely manner.

Finally, EPA proposes to require that the State submit revised NNSR program requirements no later than 18 months after final reclassification. The Act does not specify a deadline for the State's submission of SIP revisions to meet NNSR program requirements to lower the "major stationary source" threshold from 100 tons per year (tpy) to 70 tpy (CAA section 189(b)(3)) and to address the control requirements for major stationary sources of PM_{2.5} precursors (CAA section 189(e))¹⁴ following reclassification of a Moderate PM_{2.5} nonattainment area as Serious nonattainment under subpart 4. Pursuant to EPA's gap-filling authority in CAA section 301(a) and to effectuate the statutory control requirements in section 189 of the Act, EPA proposes to require the State to submit these NNSR SIP revisions, as well as any necessary

¹⁴ Section 189(e) requires that the control requirements applicable to major stationary sources of PM_{2.5} also apply to major stationary sources of PM_{2.5} precursors, except where the state demonstrates to EPA's satisfaction that such sources do not contribute significantly to PM_{2.5} levels that exceed the standard in the area.

analysis of and additional control requirements for major stationary sources of PM_{2.5} precursors, no later than 18 months after the effective date of final reclassification of the Salt Lake City, Provo, and Logan portion of the Logan, UT/ID area as Serious nonattainment for the 2006 PM_{2.5} standard. This due date will ensure that necessary control requirements for major sources are established well in advance of the required attainment demonstration. An 18-month timeframe for submission of the NSR SIP revisions also aligns with the statutory deadline for submission of BACM and BACT provisions and the broader analysis of PM_{2.5} precursors for potential controls on existing sources in the area.

V. Proposed Action

Pursuant to CAA section 188(b)(1), EPA is proposing to reclassify the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID PM_{2.5} nonattainment areas as Serious nonattainment for the 2006 PM_{2.5} standard based on the Agency's determination that the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID areas cannot practicably attain the 2006 PM_{2.5} standard by the Moderate area attainment date of December 31, 2015. Upon final reclassification as a Serious nonattainment area, Utah will be required to submit, within 18 months after the effective date of reclassification, an updated emissions inventory, an optional precursor insignificance demonstration, and provisions to assure that BACM shall be implemented no later than four years after the effective date of reclassification. The due date for the remaining Serious area plan elements will be three years after the effective date of the final action or December 31, 2018, whichever is earlier, to reclassify the areas. The NNSR SIP revisions will be due 18 months following reclassification.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because it does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This proposed rule would reclassify the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID nonattainment areas as Serious nonattainment for the 2006 PM_{2.5} NAAQS, and would not itself regulate small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, and does not significantly or uniquely affect small governments. This proposed action would reclassify the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID nonattainment areas as Serious nonattainment for the 2006 PM_{2.5} NAAQS, and would not itself impose any federal intergovernmental mandate. The proposed action would not require any tribes to submit implementation plans.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have Tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes.”

There are no Indian tribes located within the boundaries of the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID nonattainment areas for the 2006 PM_{2.5} NAAQS. EPA concludes that the proposed reclassification would not have tribal implications for the purposes of Executive Order 13175.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the

Executive Order. This proposed action is not subject to Executive Order 13045 because it would only reclassify the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID nonattainment areas as Serious nonattainment for the 2006 PM_{2.5} NAAQS, triggering Serious area planning requirements under the CAA. This proposed action does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA has determined that this action will not have potential disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This proposed action would only reclassify the Salt Lake City, Provo, and the Logan portion of the Logan, UT/ID nonattainment areas as Serious nonattainment for the 2006 PM_{2.5} NAAQS, triggering additional Serious area planning requirements under the CAA.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter,

Reporting and recordkeeping requirements, Sulfur oxides, Volatile organization compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 27, 2015.

Shaun L. McGrath,
Regional Administrator,
Region 8.

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